

October 2003

MJI Publications Updates

Adoption Proceedings Benchbook

Crime Victim Rights Manual

Domestic Violence Benchbook (2d ed)

**Friend of the Court Domestic Violence
Resource Book**

**Juvenile Justice Benchbook (Revised
Edition)**

Juvenile Traffic Benchbook

Sexual Assault Benchbook

**Traffic Benchbook--Revised Edition,
Volume 1**

**Traffic Benchbook--Revised Edition,
Volume 2**

Update: Adoption Proceedings Benchbook

CHAPTER 2

Freeing a Child for Adoption

2.13 Termination Pursuant to a Step-Parent Adoption

C. Grandparent Visitation

Insert the following text at the top of page 65, immediately before Section 2.14:

On July 31, 2003, the Michigan Supreme Court issued an opinion in *DeRose v DeRose*, ___ Mich ___ (2003). The Supreme Court found MCL 722.27b unconstitutional and stated the following:

“There is no indication that the statute requires deference of any sort be paid by a trial court to the decisions fit parents make for their children. Thus, like the Washington statute at issue in *Troxel v Granville*, 530 US 57 (2000)], it is for this reason, the fact that our statute fails to require that a trial court accord deference to the decisions of fit parents regarding grandparent visitation, that we find our statute is constitutionally deficient.” [Footnotes omitted.] ___ Mich at ___.

CHAPTER 3

Identifying the Father

3.8 The Paternity Act

B. A Child That the “Court Has Determined to Be a Child Born or Conceived During a Marriage but Not the Issue of That Marriage”

Insert the following case summary on page 100, immediately before the case summary of *Hauser v Reilly*:

♦ ***Kaiser v Schreiber*, ___ Mich App ___ (2003)**

In *Kaiser*, the plaintiff filed an action under the Child Custody Act seeking joint legal and physical custody of his biological daughter. The mother (defendant) and the plaintiff were both married to other people at the time the child was conceived and born. The plaintiff alleged in his complaint that he was the biological father of the child. The defendant responded by admitting that the plaintiff was the child’s biological father. The parties then agreed to a temporary order for custody and visitation. Shortly after, the defendant began resisting compliance with the temporary order. She filed a motion for summary disposition indicating that the court lacked jurisdiction over a custody action where the mother was married to another at the time of conception and birth. The plaintiff filed a motion to amend his pleadings to add a claim under the Paternity Act. The trial court vacated the temporary order and granted summary disposition. On appeal, the Court of Appeals reversed the trial court, concluding that because the mother answered the complaint admitting the father’s paternity, the trial court had jurisdiction to entertain a custody action. The Court of Appeals distinguished this case from *Girard v Wagenmaker*, 437 Mich 231 (1991), indicating that in this case parentage was not disputed, but admitted. The Court provided the following summary of its decision:

“To summarize, the effect of plaintiff’s allegations in his complaint, defendant’s admissions in her answer, and the trial court’s temporary order is to establish that [the child] is not the issue of defendant’s marriage to her husband and that plaintiff is her father and not a ‘third person’ under the Child Custody Act. This confers standing upon plaintiff under the Child Custody Act and, if need be, under the Paternity Act, despite the restrictive language of the Paternity Act and the *Girard* decision, to seek custody of [the child] and establish his paternity. Furthermore, consistent with our holding in *Altman v Nelson*, 197 Mich App 467 (1992)], the mere fact that defendant could have successfully defeated plaintiff’s standing under both the Child Custody Act and the Paternity Act by disputing plaintiff’s allegation of fatherhood

is irrelevant. By defendant admitting rather than disputing plaintiff's allegation of fatherhood, plaintiff had standing under the Child Custody Act. Furthermore, the temporary order constitutes a determination that [the child] is not the issue of defendant's marriage and, therefore, confers standing upon plaintiff to commence proceedings if need be under the Paternity Act." ____ Mich at ____.

CHAPTER 6

Formal Placement and Action on the Adoption Petition

6.1 Formal Placement of the Child

B. Procedural and Documentary Requirements

6. “Legal Risk Placement”

Insert the following text on page 194, after the first full paragraph:

In light of the Supreme Court’s opinion in *In re JK*, 468 Mich 202 (2003), SCAO has amended form PCA 325. The amended “Notice to Adopting Parents on Pending or Potential Appeal/Rehearing” form is included in these updates and should be inserted into Appendix B, SCAO Forms. The form is also available online at <http://courts.michigan.gov/scao/courtforms/adoptions/pca325.pdf> (last visited September 30, 2003).

CHAPTER 6

Formal Placement and Action on the Adoption Petition

6.7 Grandparent Visitation

Insert the following text at the top of page 207, immediately before Section 6.8:

On July 31, 2003, the Michigan Supreme Court issued an opinion in *DeRose v DeRose*, ___ Mich ___ (2003). The Supreme Court found MCL 722.27b unconstitutional and stated the following:

“There is no indication that the statute requires deference of any sort be paid by a trial court to the decisions fit parents make for their children. Thus, like the Washington statute at issue in *Troxel v Granville*, 530 US 57 (2000)], it is for this reason, the fact that our statute fails to require that a trial court accord deference to the decisions of fit parents regarding grandparent visitation, that we find our statute is constitutionally deficient.” [Footnotes omitted.] ___ Mich at ___.

Appendix B: SCAO Forms

Please replace the existing SCAO Form PCA 325, “Notice to Adopting Parents on Pending or Potential Appeal/Rehearing,” with the following amended form.

Adoption Proceedings Benchbook UPDATE

Approved, SCAO

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	NOTICE TO ADOPTING PARENTS ON PENDING OR POTENTIAL APPEAL/REHEARING	FILE NO.
--------------------------------------------------------------------------	------------------------------------------------------------------------------------	-----------------

In the matter of _____, adoptee
Full name of child

TO: _____

1. This notice is being given to you, the adopting parents, because this child is being placed with you:
☐ before the period specified for filing a petition for rehearing or claim of appeal has expired.
☐ while a decision on a petition for rehearing or appeal as of right is pending.
2. You are notified that if a petition for rehearing or claim of appeal is or has been filed, an adoption will not be ordered until one of the following occurs:
 - a. the petition for rehearing is granted, and at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the Court of Appeals has expired without an appeal being filed.
 - b. The petition for rehearing is denied and the period for appeal as of right to the Court of Appeals has expired without an appeal being filed.
 - c. There is a decision of the Court of Appeals affirming the order terminating parental rights, the time to seek a rehearing in the Court of Appeals has expired, no rehearing or motion for rehearing is pending in the Court of Appeals, and either of the following apply:
 - i. the time for appeal to the Supreme Court has expired and no appeal is pending.
 - ii. the Supreme Court has affirmed the decision of the Court of Appeals or has denied leave to appeal, the time to seek a rehearing in the Supreme Court has expired, and no rehearing or motion for rehearing is pending in the Supreme Court.
3. You are advised that if the appeal or rehearing results in the order terminating parental rights being set aside, any orders entered that resulted in the placement with you shall be cancelled.

CERTIFICATE OF SERVICE

I certify that on this date a copy of this notice was served on the adopting parents ☐ personally. ☐ by first class mail.

Date

Signature of agent/Family Independence Agency representative/deputy clerk

Name (type or print)

Name of agency/Family Independence Agency/court

Do not write below this line - For court use only

Update: Crime Victim Rights Manual

CHAPTER 10

Restitution

10.22 Allocation of Fines, Costs, Restitution, Fees, Assessments, and Other Payments

A. In Criminal Cases

Effective October 1, 2003, 2003 PA 74, 98, and 102 amend MCL 712A.29; MCL 780.766a, .794a, and .826a; and MCL 775.22, respectively. These amendments provide consistent rules for allocating the payments described in this section.

Beginning on page 259, replace the contents of subsections A and B (ending on page 261) with the following:

Under MCL 775.22, MCL 780.766a, MCL 780.794a, and MCL 780.826a, each payment by the defendant or juvenile for victim payments, fines, costs, assessments, probation or parole supervision fees, or other payments must be allocated as follows:

- ♦ Fifty percent must be applied to victim payments. MCL 775.22(2), MCL 780.766a(2), MCL 780.794a(2), and MCL 780.826a(2). “Victim payments” are restitution ordered to be paid to the victim or victim’s estate but not to an individual or entity that has reimbursed a victim for losses arising from the offense, and assessments paid to the Crime Victim’s Rights Fund. MCL 775.22(5), MCL 780.766a(5), MCL 780.794a(5), and MCL 780.826a(5).
- ♦ For violations of state law, the remaining money must be applied in the following descending order of priority:
 - minimum state costs prescribed by MCL 769.1j;
 - other costs;
 - fines;

*See Section 10.5 (persons or entities entitled to restitution) and 2.8(A)–(C) (Crime Victim’s Rights Fund assessment).

- probation or parole supervision fees;
- assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 775.22(3), MCL 780.766a(3), MCL 780.794a(3), and MCL 780.826a(3). “Other payments” include payments to individuals or entities that have reimbursed a victim for losses arising from the offense. MCL 780.766a(3)(e), MCL 780.794a(3)(e), and MCL 780.826a(3)(e).
- ◆ For violations of local ordinances, the remaining money collected must be applied in the following descending order of priority:
 - payment of minimum state costs prescribed by MCL 769.1j;
 - payment of fines and other costs;
 - payment of assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 775.22(4), MCL 780.766a(4), MCL 780.794a(4), and MCL 780.826a(4).

If any victim payments remain unpaid after all of the other fees have been paid, then all of the remaining money collected shall be applied to victim payments. Conversely, if all of the victim payments have been made, then all of the remaining money collected shall be applied to the other fees in the order of priority listed above. MCL 775.22(2), MCL 780.766a(2), MCL 780.794a(2), and MCL 780.826a(2).

B. In Juvenile Delinquency Cases

Under MCL 712A.29, each payment made by a juvenile or his or her parents for victim payments, fines, costs, assessments, or other assessments or payments must be allocated as follows:

- ◆ Fifty percent of the money must be applied to victim payments. MCL 712A.29(2). “Victim payments” are restitution ordered to be paid to the victim or victim’s estate but not to an individual or entity that has reimbursed a victim for losses arising from the offense, and assessments paid to the Crime Victim’s Rights Fund. MCL 712A.29(7).*
- ◆ In cases involving orders of disposition for offenses that would be violations of state law if committed by an adult, the remaining money must be applied in the following descending order of priority:
 - payment of state minimum costs prescribed by MCL 769.1j;
 - payment of other costs;
 - payment of fines;
 - payment of assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 712A.29(3).

*See Section 10.5 (persons or entities entitled to restitution) and 2.8(A)–(C) (Crime Victim’s Rights Fund assessment).

- ◆ In cases involving orders of disposition for offenses that would be violations of local ordinances if committed by an adult, the remaining money must be applied in the following descending order of priority:
 - payment of state minimum costs prescribed by MCL 769.1j;
 - payment of fines and other costs;
 - payment of assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 712A.29(4).

If fines, costs, or other assessments or payments remain unpaid after all victim payments have been paid, additional money collected shall be applied to payment of those fines, costs, or other assessments or payments. If victim payments remain unpaid after all fines, costs, or other assessments or payments have been paid, additional money collected shall be applied toward payment of those victim payments. MCL 712A.29(2).

Update: Domestic Violence Benchbook (2d ed)

CHAPTER 5

Evidence in Criminal Domestic Violence Cases

5.11 Rape Shield Provisions

C. Procedures Under MCL 750.520j

2. Effect of Defendant's Violation of Notice Requirements

Insert the following text on page 188 at the end of the last paragraph in subsection 2:

In *People v McLaughlin*, ___ Mich App ___ (2003), the victim testified that, prior to the sexual assault, she had suffered a severe spinal injury, and that she was in too much pain to have consensual sexual relations with anyone. The defendant sought to admit evidence of consensual sexual relations between him and the victim that occurred both before and after the victim's spinal injury. The defendant did not provide any notice prior to the trial, as required by MCL 750.520j. The trial court excluded the evidence. On appeal, the Court of Appeals reiterated its holdings in *People v Lucas (On Remand)*, 193 Mich App 298 (1992) and *People v Lucas (After Remand)*, 201 Mich App 717 (1993), and found that it was error for a trial court to exclude evidence *solely* on the basis of defendant's failure to give notice.

The Court of Appeals concluded that the defendant's proposed evidence of consensual sexual relations prior to the victim's injury would not have served a legitimate purpose because the evidence had already established that the defendant and victim had such relations. Evidence that the defendant and victim had engaged in anal intercourse prior to the victim's injury only had a "tenuous connection" to the issue of consent but a "great potential for embarrassment, harassment, and unnecessary intrusion into privacy." *McLaughlin, supra* at ___, citing *Lucas (On Remand), supra* at 302-03. The Court of Appeals also concluded that evidence of consensual sexual relations between the defendant and victim after the victim's injury would have undermined the victim's credibility and bolstered the defendant's defense. However, the Court of Appeals found exclusion of this evidence harmless

error because the defendant was able to introduce testimony describing such relations and other activities the victim engaged in despite her back injury. Furthermore, defendant's delay in introducing the evidence suggested "wilful misconduct designed to create a tactical advantage." *McLaughlin, supra* at ___, citing *Lucas (On Remand), supra* at 302-03.

Update: Friend of the Court Domestic Violence Resource Book

CHAPTER 8

Criminal Court Proceeding Involving Domestic Violence

8.8 Probation Orders

B. Contents of Probation Orders and Their Significance in Domestic Relations Actions

Effective October 1, 2003, 2003 PA 101 amends MCL 771.3 to require the court to impose an additional condition on probationers. Replace the first bullet at the top of page 224 with the following bullet:

- ♦ The probationer shall pay certain fees listed in the statute, restitution to the victim or the victim's estate, and the minimum state cost prescribed by MCL 769.1j.

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Update: Juvenile Justice Benchbook (Revised Edition)

CHAPTER 10

Juvenile Dispositions

10.9 Dispositional Options Available to Court

C. In-Home Probation

Insert the following text at the end of the second paragraph on page 221:

Effective October 1, 2003, 2003 PA 71 amends MCL 712A.18(1)(b) to require the court to order, as a condition of probation or supervision, that the juvenile pay the minimum state cost prescribed by MCL 712A.18m.*

*See the update for Section 10.14, below, for information on the minimum state cost prescribed by MCL 712A.18m.

CHAPTER 10

Juvenile Dispositions

10.9 Dispositional Options Available to Court

K. State Minimum Costs

On page 226, change the subsection heading as indicated above, delete the first sentence in subsection K, and insert the following text:

Effective October 1, 2003, MCL 712A.18(1)(k), which permitted the court to order the juvenile to pay court costs, has been eliminated. 2003 PA 71 eliminated MCL 712A.18(1)(k) but added provisions requiring the court to order the juvenile to pay state minimum costs.

MCL 712A.18m requires a court to order state minimum costs for felonies, specified or serious misdemeanors,* misdemeanors, and ordinance violations. MCL 712A.18m(1) provides:

“(1) If a juvenile is within the court’s jurisdiction under section 2(a)(1) of this chapter, the court shall order the juvenile to pay costs of not less than the following amount, as applicable:

“(a) \$60.00, if the juvenile is found to be within the court’s jurisdiction for a felony.

“(b) \$45.00, if the juvenile is found to be within the court’s jurisdiction for a serious misdemeanor or a specified misdemeanor.

“(c) \$40.00, if the juvenile is found to be within the court’s jurisdiction for a misdemeanor not described in subdivision (b) or of an ordinance violation.”

The court clerk must submit the state minimum costs collected to the Justice System Fund. MCL 712A.18m(2).* See also MCL 600.181 for information on the Justice System Fund.

Replace the quotation of MCL 771.3(7)(a)-(b) at the bottom of page 227 and top of page 228 with the following:

“(a) The court shall not require a probationer to pay costs under subsection (2) unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs under subsection (2), the court shall

*See Section 10.13(B) for a listing of “serious” and “specified” misdemeanors.

*See the update for Section 10.14, below, for information on the allocation of funds collected.

take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

“(b) A probationer who is required to pay costs under subsection (1)(g)* or subsection (2)(c) and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.”

*MCL
771.3(1)(g)
requires a
probationer to
pay state
minimum costs
pursuant to
MCL 769.1j.

CHAPTER 10

Juvenile Dispositions

10.14 Allocation of Fines, Costs, Restitution, Fees, Assessments, and Other Payments

Effective October 1, 2003, 2003 PA 74, 98, and 102 amend MCL 712A.29, MCL 780.794a, and MCL 775.22, respectively. These amendments provide consistent rules for allocating the payments described in this section. Replace the second and third bullets in the “**Criminal cases**” subsection on the bottom of page 259 and top of page 260 with the following text:

- For violations of state law, the remaining money must be applied in the following descending order of priority:
 - minimum state cost;
 - other costs;
 - fines;
 - probation or parole supervision fees;
 - assessments (other than the “crime victim’s rights assessment”) and other payments, including reimbursement to third parties who reimbursed a victim for his or her loss. MCL 775.22(3) and MCL 780.794a(3).
- For violations of local ordinances, the remaining money collected must be applied in the following descending order of priority:
 - minimum state cost;
 - fines and other costs;
 - assessments and other payments. MCL 775.22(4) and MCL 780.794a(4).

Replace the second and third bullets in the “**Juvenile delinquency cases**” subsection on page 260 with the following:

- In cases involving orders of disposition for offenses that would be violations of state law if committed by an adult, the remaining money must be applied in the following descending order of priority:
 - minimum state cost;
 - other costs;

- fines;
- assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 712A.29(3).
- In cases involving orders of disposition for offenses that would be violations of local ordinances if committed by an adult, the remaining money collected must be applied in the following descending order of priority:
 - minimum state cost;
 - fines and other costs;
 - assessments (other than the “crime victim’s rights assessment”) and other payments. MCL 712A.29(4).

A fine imposed for a felony, misdemeanor, or ordinance violation must not be waived unless costs, other than the minimum state cost, are waived. MCL 712A.18m(3).

CHAPTER 25

Recordkeeping & Reporting Requirements

25.19 DNA Profiling Requirements

E. Ordering and Distribution of Assessment Fees

Beginning on page 546, replace the text in the subsection titled “**Persons convicted or found responsible**” with the following text:

After October 1, 2003, the court is no longer required to order the DNA assessment fee provided for in MCL 712A.18k(4). The court is still required to order the DNA testing; however, the corresponding assessment fee has been eliminated.

If the court ordered the DNA assessment fee prior to October 1, 2003, but the fee is collected on or after October 1, 2003, then the court must distribute the DNA assessment or portions of the DNA assessment as follows:

- ♦ 10% to the court.
- ♦ 25% to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court.
- ♦ 65% to the State Treasurer for deposit in the Justice System Fund. MCL 712A.18k(7).

October 2003

Update: Juvenile Traffic Benchbook

CHAPTER 5

Dispositional Hearings

5.5 Dispositional Options

B. In-Home Probation

Insert the following language on page 5-4 immediately before subsection C:

The court shall require the juvenile to pay the minimum state cost* prescribed in MCL 712A.18m as a condition of the juvenile's probation. MCL 712A.18(1)(b).

*See subsection K below for discussion of "minimum state costs."

5.5 Dispositional Options

K. State Minimum Costs

On page 5-6, change the title of subsection K to “State Minimum Costs” and replace the existing text with the following:

Effective October 1, 2003, 2003 PA 71 deleted MCL 712A.18(1)(k), which dealt with “court costs,” and added MCL 712A.18(18) requiring a court to order a juvenile within its jurisdiction to pay minimum state costs according to MCL 712A.18m. MCL 712A.18m states:

“(1) If a juvenile is within the court’s jurisdiction under section 2(a)(1) of this chapter, the court shall order the juvenile to pay costs of not less than the following amount, as applicable:

“(a) \$60.00, if the juvenile is found to be within the court’s jurisdiction for a felony.

“(b) \$45.00, if the juvenile is found to be within the court’s jurisdiction for a serious misdemeanor or a specified misdemeanor.

“(c) \$40.00, if the juvenile is found to be within the court’s jurisdiction for a misdemeanor not described in subdivision (b) or of an ordinance violation.”
MCL 712A.18m(1)(a)–(c).

5.8 Allocation of Money Collected From Payment of Fines, Costs, Restitution, Assessments, or Other Payments

B. Allocation of Costs, Fines, and Assessments

Replace the content of subsection (B) on page 5-8 with the following:

When orders of disposition involve offenses that would be violations of state law if committed by an adult, money allocated under MCL 712A.29(2) for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following descending order of priority:

- a) Payment of the minimum state cost mandated by MCL 769.1j.
- b) Payment of other costs.
- c) Payment of fines.
- d) Payment of assessments and other payments.

MCL 712A.29(3)(a)–(d).

Money allocated for payment of costs under subsection (3) shall be paid to the county treasurer for deposit in the county's general fund. Money allocated for payment of fines under subsection (3) shall be paid to the county treasurer and used for library purposes as provided by law. MCL 712A.29(5).

When orders of disposition involve offenses that would be violations of local ordinances if committed by an adult, money allocated under MCL 712A.29(2) for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following descending order of priority:

- a) Payment of the minimum state cost mandated by MCL 769.1j.
- b) Payment of fines and other costs.
- c) Payment of assessments and other payments.

MCL 712A.29(4)(a)–(c).

One-third of the money allocated for payment of costs and fines under subsection (4) shall be paid to the treasurer of the political subdivision whose ordinance was violated. Two-thirds of the money allocated under subsection (4) shall be paid to the county treasurer and deposited in the county's general fund. MCL 712A.29(6).

CHAPTER 8

Procedures for Civil Infractions

8.30 Civil Fines

Replace the bulleted list at the top of page 8-37 with the following:

*Effective
October 1,
2003.

- Handicap parking violations—not less than \$100 or more than \$250 plus costs. MCL 257.674(1)(s).*
- Failure to produce evidence of insurance—not more than \$10 plus costs. MCL 257.328.
- Child restraint violations—not more than \$10 plus costs. MCL 257.710d.
- Safety belt violations—the civil fine and costs shall be \$25. MCL 257.710e.
- Failure to stop for school bus—not less than \$100 or more than \$500 plus costs. MCL 257.682.
- With the exception of civil infractions under MCL 257.319g,* civil infractions that occurred while driving a commercial motor vehicle—the civil fine shall not exceed \$250 plus costs. MCL 257.907(3).

*See the
October 2002
update.

8.31 Court Costs

Beginning with the second paragraph on page 8-38, replace the content of Section 8.31 with the following:

Under MCL 257.907(4), if civil fines are ordered for an infraction listed in §907(2) or (3) (violations of the Michigan Vehicle Code), a judge or district court magistrate must determine and order the juvenile to pay taxable costs. The costs ordered shall not exceed \$100. Except as otherwise provided by law, costs are payable to the plaintiff's general fund. Nine dollars of any costs ordered under MCL 600.8381(1) before October 1, 2003, but collected on or after that date, shall be paid to the justice system fund created by MCL 600.181. MCL 600.8381(2)(b).

In general, the court costs imposed for a violation of a county, city, township, or village ordinance substantially corresponding to the Michigan Vehicle Code shall be paid 1/3 to the support of the political subdivision whose law was violated and 2/3 to the county in which the political subdivision is located, in districts of the first and second class. However, districts of the third class may agree to a different distribution among the political subdivisions of that district. MCL 600.8379.

8.33 Waiving Civil Fines, Court Costs, and Assessments

Replace the existing title and content of Section 8.33 on page 8-39 with the following:

“The court may waive fines, costs and fees, pursuant to statute or court rule, or to correct clerical error.” MCR 4.101(F)(4).

The court shall waive civil fines, costs, and assessments under the following circumstances:

- For defective safety equipment violations—if written under MCL 257.683, “upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.” MCL 257.907(9).
- For child restraint violations—“if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the [statutory] requirements” MCL 257.907(12).
- For failing to produce a valid registration certificate—“upon receipt of a certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation . . . occurred.” MCL 257.907(15).
- For failing to possess license while operating vehicle—“upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, has produced his or her operator’s or chauffeur’s license and that the license was valid on the date the violation . . . occurred.” MCL 257.901a.

8.34 Assessments

Replace the content of Section 8.34 (beginning at the bottom of page 8-39) with the following:

Beginning October 1, 2003, former assessments for the Highway Safety Fund, the Secondary Road Patrol and Training Fund, and the Michigan Justice Training Fund were collapsed into a single “justice system” assessment of \$40 for traffic-related civil infractions, except for parking violations or violations for which the fines and costs imposed totaled \$10 or less. MCL 257.629e; MCL 257.907(14); MCL 600.8381(5).

In addition to any civil fines and costs ordered for the civil infractions listed in MCL 257.907(2) and (3), “the judge or the district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination.” MCL 257.907(14). The \$40 assessment, which is not a civil fine, is deposited into the state treasury’s justice system fund created by MCL 600.181. MCL 257.629e(2); MCL 257.907(14); MCL 600.8381(5).

Beginning October 1, 2003, when fines and costs are assessed in non-traffic civil infraction actions, the judge or district court magistrate shall order a defendant to pay the state assessment required by MCL 600.8727(4) (\$10 for municipal civil infractions) and MCL 600.8827(4) (\$10 for state civil infractions), in addition to any other fines and costs ordered. MCL 600.8381(5).

Assessments ordered before October 1, 2003, but collected on or after that date must be deposited in the justice system fund. MCL 257.907(13).

8.38 Points

Insert the following information on page 8-43 immediately before the beginning of Section 8.39:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a “driver responsibility fee” based on the number of points an individual accumulates on his or her driving record. MCL 257.732a(1) provides the following schedule of fees:

“An individual, whether licensed or not, who accumulates 7 or more points on his or her driving record pursuant to section 320a within a 2-year period for any violation not listed under subsection (2) shall be assessed a \$100.00 driver responsibility fee. For each additional point accumulated above 7 points not listed under subsection (2), an additional fee of \$50.00 shall be assessed. The secretary of state shall collect the fees described in this subsection once each year that the point total on an individual driving record is 7 points or more.”

Only points assigned after the effective date of the statute (October 1, 2003) will be used to calculate the driver responsibility fee. Points existing on a driver’s record prior to the effective date do not count. MCL 257.732a(6).

Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

8.39 License Suspension

Add the following language to Section 8.39 on page 8-42:

Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

Update: Sexual Assault Benchbook

CHAPTER 7

General Evidence

7.2 Rape Shield Provisions

C. Notice Requirements

Insert the following text on page 324 at the end of the last paragraph in subsection C:

In *People v McLaughlin*, ___ Mich App ___ (2003), the victim testified that, prior to the sexual assault, she had suffered a severe spinal injury, and that she was in too much pain to have consensual sexual relations with anyone. The defendant sought to admit evidence of consensual sexual relations between him and the victim that occurred both before and after the victim's spinal injury. The defendant did not provide any notice prior to the trial, as required by MCL 750.520j. The trial court excluded the evidence. On appeal, the Court of Appeals reiterated its holdings in *People v Lucas (On Remand)*, 193 Mich App 298 (1992) and *People v Lucas (After Remand)*, 201 Mich App 717 (1993), and found that it was error for a trial court to exclude evidence *solely* on the basis of defendant's failure to give notice.

The Court of Appeals concluded that the defendant's proposed evidence of consensual sexual relations prior to the victim's injury would not have served a legitimate purpose because the evidence had already established that the defendant and victim had such relations. Evidence that the defendant and victim had engaged in anal intercourse prior to the victim's injury only had a "tenuous connection" to the issue of consent but a "great potential for embarrassment, harassment, and unnecessary intrusion into privacy." *McLaughlin, supra* at ___, citing *Lucas (On Remand), supra* at 302-03. The Court of Appeals also concluded that evidence of consensual sexual relations between the defendant and victim after the victim's injury would have undermined the victim's credibility and bolstered the defendant's defense. However, the Court of Appeals found exclusion of this evidence harmless error because the defendant was able to introduce testimony describing such relations and other activities the victim engaged in despite her back injury.

Furthermore, defendant's delay in introducing the evidence suggested "wilful misconduct designed to create a tactical advantage." *McLaughlin, supra* at ___, citing *Lucas (On Remand), supra* at 302-03.

CHAPTER 8

Scientific Evidence

8.2 Expert Testimony in Sexual Assault Cases

B. Expert Testimony by Physicians and Medical Personnel

Insert the following text on the top of page 406, after the third sentence in the first paragraph:

The Michigan Court of Appeals addressed, but did not resolve, a defendant's challenge to the admission of a SANE's expert testimony at the defendant's trial. In *People v McLaughlin*, ___ Mich App ___ (2003), the defendant was convicted of CSC. On appeal, he argued that the trial court erred in permitting a SANE to testify as an expert when the prosecution did not designate her as an expert during pretrial discovery. The Court of Appeals did not decide the issue of failing to designate a witness as an expert, but instead upheld the trial court's decision because allowing the SANE to testify as an expert was harmless. The SANE testified about her observations and findings during an examination of the victim. The Court of Appeals found that the only statements in the SANE's testimony that could be construed as "specialized knowledge" were her statements that the victim's physical state and demeanor were consistent with that of a recent rape victim. The Court of Appeals concluded that these statements did not involve "highly specialized knowledge" and were "largely based on common sense." *McLaughlin, supra* at _____. The Court of Appeals also indicated that although it rejected the defendant's argument because any error was harmless, it was also inclined to reject the defendant's argument because MCR 6.201(A) does not explicitly require pretrial designation of expert and lay witnesses. *McLaughlin, supra* at _____.

CHAPTER 9

Post-Conviction and Sentencing Matters

9.5 Imposition of Sentence

B. Sentencing Guidelines

Insert the following text on page 455, after the “Note”:

The Court of Appeals in *People v McLaughlin*, ___ Mich App ___, ___ (2003), held that trial courts are prohibited from assigning points under OV 11 for the one penetration that forms the basis of a first- or third-degree CSC conviction that constitutes the sentencing offense, but are directed to score points for any additional penetrations that did not form the basis of the sentencing offense. In *McLaughlin*, the defendant was convicted of three counts of first-degree CSC. For each conviction, the trial court scored 50 points under OV 11 for the two criminal sexual penetrations forming the basis of the other two convictions. The defendant objected to the scoring of OV 11 and indicated that MCL 777.41(2)(c) prohibits a scoring of points for the penetration that forms the basis of *an* offense. The Court of Appeals upheld the scoring indicating that scoring 50 points for a defendant’s conviction of first-degree CSC was appropriate where the defendant is also convicted of two other first-degree CSC charges arising out of the same assault. *McLaughlin, supra* at ___.

CHAPTER 9

Post-Conviction and Sentencing Matters

9.5 Imposition of Sentence

E. Probation

5. Contents of Probation Orders

Effective October 1, 2003, 2003 PA 101 amends MCL 771.3 to require the court to impose an additional condition on probationers. Near the bottom of page 460, replace the fourth bullet with the following:

- ♦ The probationer shall pay certain fees listed in the statute, restitution to the victim or victim's estate and the minimum state cost prescribed by MCL 769.1j.

CHAPTER 11

Sex Offender Identification and Profiling Systems

11.4 DNA Identification Profiling System

E. Ordering and Distribution of Assessment Fees

1. Persons Convicted or Found Responsible

Replace the current text in Section 11.4(E)(1) with the following text beginning on the bottom of page 539:

After October 1, 2003, the court is no longer required to order the DNA assessment fee provided for in MCL 28.176(5). The court is still required to order the DNA testing; however, the corresponding assessment fee has been eliminated.

If the court ordered the DNA assessment fee prior to October 1, 2003, but the fee is collected on or after October 1, 2003, then the court must distribute the DNA assessment or portions of the DNA assessment as follows:

- ♦ 10% to the court.
- ♦ 25% to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court.
- ♦ 65% to the State Treasurer for deposit in the Justice System Fund. MCL 28.176(8).

Update: Traffic Benchbook— Revised Edition, Volume 1

CHAPTER 1

Required Procedures for Civil Infractions

Part F—Civil Sanctions and Licensing Sanctions

1.34 Civil Fines

Replace the last paragraph and the bulleted list at the bottom of page 1-40 and the top of page 1-41 with the following:

Under MCL 257.907(2) and (3), the Michigan Vehicle Code sets forth the following schedule of maximum fines for certain civil infractions:

- Handicap parking violations—not less than \$100 or more than \$250 plus costs. MCL 257.674(1)(s).*
- Failure to produce evidence of insurance—not more than \$10 plus costs. MCL 257.328.
- Child restraint violations—not more than \$10 plus costs. MCL 257.710d.
- Safety belt violations—the civil fine and costs shall be \$25. MCL 257.710e.
- Failure to stop for school bus—not less than \$100 or more than \$500 plus costs. MCL 257.682.
- With the exception of civil infractions under MCL 257.319g,* civil infractions that occurred while driving a commercial motor vehicle—the civil fine shall not exceed \$250 plus costs. MCL 257.907(3).

*Effective
October 1,
2003.

*See the
October 2002
update.

1.35 Court Costs

Beginning with the second paragraph on page 1-42, replace the content of Section 1.35 with the following:

Under MCL 257.907(4), if civil fines are ordered for an infraction listed in §907(2) or (3) (violations of the Michigan Vehicle Code), a judge or district court magistrate must determine and order the defendant to pay taxable costs. The costs ordered shall not exceed \$100. Except as otherwise provided by law, costs are payable to the plaintiff's general fund. Nine dollars of any costs ordered under MCL 600.8381(1) before October 1, 2003, but collected on or after that date, shall be paid to the justice system fund created by MCL 600.181. MCL 600.8381(2)(b).

In general, the court costs imposed for a violation of a county, city, township, or village ordinance substantially corresponding to the Michigan Vehicle Code shall be paid 1/3 to the support of the political subdivision whose law was violated and 2/3 to the county in which the political subdivision is located, in districts of the first and second class. However, districts of the third class may agree to a different distribution among the political subdivisions of that district. MCL 600.8379.

1.37 Waiving Civil Fines, Court Costs, and Assessments

Replace the existing title and content of Section 1.37 on page 1-43 with the following:

“The court may waive fines, costs and fees, pursuant to statute or court rule, or to correct clerical error.” MCR 4.101(F)(4).

The court shall waive civil fines, costs, and assessments under the following circumstances:

- For defective safety equipment violations—if written under MCL 257.683, “upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.” MCL 257.907(9).
- For child restraint violations—“if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the [statutory] requirements” MCL 257.907(12).
- For failing to produce a valid registration certificate—“upon receipt of a certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation . . . occurred.” MCL 257.907(15).
- For failing to possess license while operating vehicle—“upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, has produced his or her operator’s or chauffeur’s license and that the license was valid on the date the violation . . . occurred.” MCL 257.901a.

1.38 Assessments

Replace the content of Section 1.38 with the following text:

Beginning October 1, 2003, former assessments for the Highway Safety Fund, the Secondary Road Patrol and Training Fund, and the Michigan Justice Training Fund were collapsed into a single “justice system” assessment of \$40 for traffic-related civil infractions, except for parking violations or violations for which the fines and costs imposed totaled \$10 or less. MCL 257.629e; MCL 257.907(14); MCL 600.8381(5).

In addition to any civil fines and costs ordered for the civil infractions listed in MCL 257.907(2) and (3), “the judge or the district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination.” MCL 257.907(14). The \$40 assessment, which is not a civil fine, is deposited into the state treasury’s justice system fund created by MCL 600.181. MCL 257.629e(2); MCL 257.907(14); MCL 600.8381(5).

Beginning October 1, 2003, when fines and costs are assessed in non-traffic civil infraction actions, the judge or district court magistrate shall order a defendant to pay the state assessment required by MCL 600.8727(4) (\$10 for municipal civil infractions) and MCL 600.8827(4) (\$10 for state civil infractions), in addition to any other fines and costs ordered. MCL 600.8381(5).

Assessments ordered before October 1, 2003, but collected on or after that date must be deposited in the justice system fund. MCL 257.907(13).

1.42 Points

Insert the following language at the end of Section 1.42 at the bottom of page 1-47:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a “driver responsibility fee” based on the number of points an individual accumulates on his or her driving record. MCL 257.732a provides the following schedule of fees:

“(1) An individual, whether licensed or not, who accumulates 7 or more points on his or her driving record pursuant to section 320a within a 2-year period for any violation not listed under subsection (2) shall be assessed a \$100.00 driver responsibility fee. For each additional point accumulated above 7 points not listed under subsection (2), an additional fee of \$50.00 shall be assessed. The secretary of state shall collect the fees described in this subsection once each year that the point total on an individual driving record is 7 points or more.”

Only points assigned after the effective date of the statute (October 1, 2003) will be used to calculate the driver responsibility fee. Points existing on a driver’s record prior to the effective date do not count. MCL 257.732a(6).

Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

1.43 License Suspension

Add the following text at the end of Section 1.43 on page 1-48:

Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 2

Civil Infractions

2.2 Equipment Violations

F. Civil Sanctions for Equipment Violations

1. Standard civil sanctions for equipment violations

Replace the text in #2 and #3 (including the bulleted list) near the bottom of page 2-4 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for equipment violations, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.3 Overtaking or Passing

D. Civil Sanctions for Overtaking or Passing Violations

1. Standard civil sanctions for overtaking or passing violations

Replace the text in #2 and #3 (including the bulleted list) in the middle of page 2-8 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.4 Parking, Stopping, or Standing

G. Civil Sanctions for Parking, Stopping, or Standing Violations

1. Standard civil sanctions for parking, stopping, or standing violations

Replace #2 at the top of page 2-14 with the following text:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for civil infractions, but costs ordered shall not exceed \$100.00. MCL 257.907(4).

Delete #3 and its bulleted list. The justice system fund assessment does not apply to parking violations. MCL 257.907(14).

2. Special civil sanction provisions for parking, stopping, or standing violations

On page 2-14, replace the sentence under this subsection with the following:

A person responsible for a handicap parking violation shall be fined not less than \$100 or more than \$250 plus costs. MCL 257.674(1)(s) and MCL 257.907(2).

2.5 Railroad Crossings

D. Civil Sanctions for Railroad Crossing Violations

1. Standard civil sanctions for railroad crossing violations

Replace the text in #2 and #3 (including the bulleted list) near the bottom of page 2-16 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.6 Right-of-Way or Failure to Yield

J. Civil Sanctions for Right-of-Way or Failure to Yield Violations

1. Standard civil sanctions for right-of-way or failure to yield violations

Replace the text in #2 and #3 (including the bulleted list) at the top of page 2-21 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.7 Safety Belt Violations

E. Civil Sanctions for Safety Belt Violations

1. Standard civil sanctions for safety belt violations

Replace the text in subsection E on pages 2-24 and 2-25 with the following:

Beginning October 1, 2003, in a civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907(2), the court must also order a defendant to pay a \$40 justice system fund assessment. MCL 257.907(14).

2.8 Speed Violations

F. Civil Sanctions for Speed Violations

1. Standard civil sanctions for speed violations

Replace the text in #2 and #3 (including the bulleted list) in the middle of page 2-30 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.9 Stop and Go, Signs and Signals

D. Civil Sanctions for Stop and Go, Sign and Signal Violations

1. Standard civil sanctions for stop and go, sign and signal violations

Replace the text in #2 and #3 (including the bulleted list) at the top of page 2-39 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.10 Turning and Signaling

H. Civil Sanctions for Turning and Signaling Violations

1. Standard civil sanctions for turning and signaling violations

Replace the text in #2 and #3 (including the bulleted list) near the top of page 2-42 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.11 Wrong Side or Wrong Way

E. Civil Sanctions for Wrong Side or Wrong Way Violations

1. Standard civil sanctions for wrong side or wrong way violations

Replace the text in #2 and #3 (including the bulleted list) near the top of page 2-45 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.12 Careless Driving

C. Civil Sanctions

1. Standard civil sanctions for careless driving

Replace the text in #2 and #3 (including the bulleted list) in the middle of page 2-46 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.13 Coasting

C. Civil Sanctions

1. Standard civil sanctions for coasting

Replace the text in #2 and #3 (including the bulleted list) near the top of page 2-48 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.14 Driving Over Fire Hose

C. Civil Sanctions

1. Standard civil sanctions for driving over fire hose

Replace the text in #2 and #3 (including the bulleted list) in the middle of page 2-49 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.15 Failing to Change Address on Registration or Title

C. Civil Sanctions

1. Standard civil sanctions for failing to change address on registration or title

Replace the text in #2 and #3 (including the bulleted list) at the bottom of page 2-50 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.16 Failing to Stop for School Bus

D. Civil Sanctions

1. Standard civil sanctions for failing to stop for a school bus

Replace the text in #2 and #3 (including the bulleted list) at the bottom of page 2-52 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.17 Following a Fire Truck Too Closely

C. Civil Sanctions

1. Standard civil sanctions for following a fire truck too closely

Replace the text in #2 and #3 (including the bulleted list) near the top of page 2-54 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.18 Interference with View, Control, or Operation of Vehicle

C. Civil Sanctions

1. Standard civil sanctions for interference with view, control or operation of vehicle

Replace the text in #2 and #3 (including the bulleted list) at the bottom of page 2-55 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.19 No Proof of Insurance

C. Civil Sanctions

1. Standard civil sanctions for no proof of insurance

Replace the text in #2 and #3 (including the bulleted list) at the top of page 2-57 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.20 No Proof of Registration

C. Civil Sanctions

1. Standard civil sanctions for no proof of registration

Replace the text in #2 and #3 (including the bulleted list) in the middle of page 2-59 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.21 Operating a Vehicle in Violation of Graduated Licensing Requirements

C. Civil Sanctions

Replace the text in #2 and #3 (including the bulleted list) in the middle of page 2-62 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

2.22 Failing to Change Address on Driver's License

C. Civil Sanctions

Replace the text in #2 and #3 (including the bulleted list) near the bottom of page 2-63 with the following:

2. Beginning October 1, 2003, there shall be no minimum costs imposed for traffic civil infractions, but costs shall not exceed \$100.00. MCL 257.907(4).
3. Also beginning October 1, 2003, in a traffic-related civil infraction action where fines and costs are ordered, the defendant shall be ordered to pay a justice system assessment under MCL 257.907. MCL 600.8381(5). In addition to any civil fines and costs ordered under MCL 257.907, the court must order a defendant to pay a \$40 justice system fund assessment for each traffic-related civil infraction determination (except parking violations and violations for which fines and costs total \$10 or less). MCL 257.907(14).

CHAPTER 3

Misdemeanor Traffic Offenses

Part A—Introduction

3.6 State Minimum Costs for Misdemeanor Traffic Offenses

Insert the following new Section 3.6 and renumber other sections in this chapter accordingly:

Effective October 1, 2003, a schedule of minimum state costs was established for all misdemeanor convictions, including traffic convictions. MCL 600.8381(4), as added by 2003 PA 96, states:

“Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than \$45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than \$40.00 for each conviction for any other misdemeanor or ordinance violation.”

*See Section 3.14.

“Serious misdemeanors” are listed in MCL 780.811(1)(a). The only “serious misdemeanor” discussed in this chapter is leaving the scene of a personal-injury accident, MCL 257.617a.*

Note that the definition of “serious misdemeanor” includes a violation of a local ordinance substantially corresponding to a “serious misdemeanor” and a charged felony or “serious misdemeanor” subsequently reduced or pled to as a misdemeanor.

*See Section 3.45.

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The only “specified misdemeanor” discussed in this chapter is reckless driving, MCL 257.626.*

Note that the definition of “specified misdemeanor” includes a violation of a local ordinance substantially corresponding to the violation listed above.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g), as added by 2003 PA 101, effective October 1, 2003.

3.7 Points

Add the following language to the end of Section 3.7 on page 3-6:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State's imposition of a "driver responsibility fee" based on the number of points an individual accumulates on his or her driving record. MCL 257.732a provides the following schedule of fees:

"(1) An individual, whether licensed or not, who accumulates 7 or more points on his or her driving record pursuant to section 320a within a 2-year period for any violation not listed under subsection (2)* shall be assessed a \$100.00 driver responsibility fee. For each additional point accumulated above 7 points not listed under subsection (2), an additional fee of \$50.00 shall be assessed. The secretary of state shall collect the fees described in this subsection once each year that the point total on an individual driving record is 7 points or more."

Only points assigned after the effective date of the statute (October 1, 2003) will be used to calculate the driver responsibility fee. Points existing on a driver's record prior to the effective date do not count. MCL 257.732a(6).

Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

*MCL 257.732a(2) provides for a mandatory assessment of a fixed "driver responsibility fee" when an individual is *convicted* of the specific offenses listed, without regard to the driver's accumulation of points for those offenses. The "driver responsibility fee" under §732a(2) is discussed in relevant sections in this portion of the benchbook.

3.14 Leaving the Scene of an Accident Resulting in Personal Injury

D. Licensing Sanctions

Add the following language to subsection D on page 3-15:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a \$1,000.00 driver responsibility fee for failing to stop and disclose identity at the scene of an accident when required by law. MCL 257.732a(2)(a)(iv). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.15 Leaving the Scene of an Accident Resulting in Vehicle Damage Only

C. Criminal Penalties

Add the following language to subsection C on page 3-17:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a \$1,000.00 driver responsibility fee for failing to stop and disclose identity at the scene of an accident when required by law. MCL 257.732a(2)(a)(iv). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.16 Leaving the Scene of an Accident with an Attended or Unattended Vehicle

D. Licensing Sanctions

Add the following language to subsection D on page 3-18:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a \$1,000.00 driver responsibility fee for failing to stop and disclose identity at the scene of an accident when required by law. MCL 257.732a(2)(a)(iv). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.20 Driving With an Invalid License

D. Licensing Sanctions

Add the following language on page 3-22 to subsection D:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a \$150.00 driver responsibility fee for a conviction of MCL 257.301. MCL 257.732a(2)(c)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.31 Producing False Evidence of Motor Vehicle Insurance

D. Licensing Sanctions

Add the following language to subsection D at the top of page 3-37:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a \$150.00 driver responsibility fee for a conviction of MCL 257.328. MCL 257.732a(2)(c)(ii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.45 Reckless Driving

D. Licensing Sanctions

Add the following new #5 to the list on page 3-58:

5. Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a \$500.00 driver responsibility fee for a conviction of MCL 257.626. MCL 257.732a(2)(b)(ii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 4

Off Road Vehicles

Part A—An Overview of the ORV Act

4.8 Penalty Provisions in ORV Act

C. State Minimum Costs and Justice System Assessment

Insert the following new subsection on page 4-11:

Effective October 1, 2003, a schedule of minimum state costs was established for all misdemeanor convictions, including traffic convictions. MCL 600.8381(4), as added by 2003 PA 96, states:

“Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than \$45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than \$40.00 for each conviction for any other misdemeanor or ordinance violation.”

*See Section 6.21.

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The only “specified misdemeanor” discussed in this chapter is operating an off-road vehicle while intoxicated or visibly impaired, MCL 324.81134(1) and (2) and MCL 324.81135.*

Note that the definition of “specified misdemeanor” includes violation of a local ordinance substantially corresponding to the violation noted above.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g), as added by 2003 PA 101, effective October 1, 2003.

Beginning October 1, 2003, a justice system fund assessment of \$10 shall be ordered in addition to other fines and costs imposed for non-traffic state and municipal civil infractions. MCL 600.8727(4) and MCL 600.8827(4).

4.17 Operation of ORVs While Intoxicated or Impaired

B. Operating an ORV While Under the Influence of an Intoxicating Liquor or Controlled Substance

Insert the following language after the **DNR Note** near the top of page 4-26:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a \$1,000.00 driver responsibility fee for a conviction of MCL 324.81134 or a substantially corresponding local ordinance. MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 5

Snowmobiles

Part A—An Overview of the Snowmobile Act

5.8 Penalty Provisions in the Snowmobile Act

Insert the following new text on page 5-9 immediately before the beginning of Part B:

State minimum costs and justice system assessment. Effective October 1, 2003, 2003 PA 96 established state minimum costs of \$45 for “serious” and “specified misdemeanor” convictions, and state minimum costs of \$40 for all other misdemeanor convictions and ordinance violations. MCL 600.8381(4).

*See Section 5.19.

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The only “specified misdemeanor” discussed in this chapter is operating a snowmobile while intoxicated or visibly impaired, MCL 324.82127(1) and (3).*

Note that the definition of “specified misdemeanor” includes violation of a local ordinance substantially corresponding to the violation noted above.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g), as added by 2003 PA 101, effective October 1, 2003.

*See Section 5.8 for information about state civil infractions involving snowmobiles.

Beginning October 1, 2003, a justice system fund assessment of \$10 shall be ordered in addition to other fines and costs imposed for non-traffic state and municipal civil infractions.* MCL 600.8727(4) and MCL 600.8827(4).

CHAPTER 6

Marine Vessels and Personal Watercraft (PWC)

Part A—An Overview of the Marine Safety Act

6.9 Penalty Provisions in Marine Safety Act

Add the following language to Section 6.9 on page 6-11:

State minimum costs and justice system assessment. Effective October 1, 2003, 2003 PA 96 established state minimum costs of \$45 for “serious” and “specified misdemeanor” convictions, and state minimum costs of \$40 for all other misdemeanor convictions and ordinance violations. MCL 600.8381(4).

“Serious misdemeanors” are listed in MCL 780.811(1)(a). The only “serious misdemeanor” discussed in this chapter is operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful bodily alcohol content, MCL 324.80176(1) and (3), if the violation involves an accident resulting in damage to another individual’s property or physical injury or death to another individual.*

*See Section 6.21(D) and (E).

Note that the definition of “serious misdemeanor” includes a violation of a local ordinance substantially corresponding to a “serious misdemeanor,” and a charged felony or serious misdemeanor subsequently reduced or pled to as a misdemeanor.

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The only “specified misdemeanor” discussed in this chapter is operating a vessel while intoxicated or visibly impaired, MCL 324.80176(1) and (3).*

*See Section 6.21.

Note that the definition of “specified misdemeanor” includes a violation of a local ordinance substantially corresponding to the violation noted above.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g), as added by 2003 PA 101, effective October 1, 2003.

Beginning October 1, 2003, a justice system fund assessment of \$10 shall be ordered in addition to other fines and costs imposed for non-traffic state and municipal civil infractions. MCL 600.8727(4) and MCL 600.8827(4).

CHAPTER 6

Marine Vessels and Personal Watercraft (PWC)

Part C—Special Requirements for Personal Watercraft (PWC)

6.24 Penalty Provisions in Personal Watercraft Safety Act

Add the following language to Section 6.24 on page 6-33:

State minimum costs and justice system assessment. Effective October 1, 2003, 2003 PA 96 establishes a schedule of minimum state costs for all misdemeanor convictions. MCL 600.8381(4), as added by 2003 PA 96, states:

“Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than \$45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than \$40.00 for each conviction for any other misdemeanor or ordinance violation.”

The Personal Watercraft Safety Act does not include any “serious misdemeanors” or “specified misdemeanors.” Thus, the minimum state costs for the offenses discussed in this part of Chapter 6 are \$40.00.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g), as added by 2003 PA 101, effective October 1, 2003.

Beginning October 1, 2003, a justice system fund assessment of \$10 shall be ordered in addition to other fines and costs imposed for non-traffic state and municipal civil infractions. MCL 600.8727(4) and MCL 600.8827(4).

Update: Traffic Benchbook— Revised Edition, Volume 2

CHAPTER 2

Procedures in Drunk Driving and DWLS Cases

2.9 General Sentencing Considerations for §625 and §904 Offenses

Add the following new subsection on page 2-54 immediately before the beginning of Section 2.10:

H. State Minimum Costs

Effective October 1, 2003, if a court orders a defendant to pay any combination of fines, costs, or assessments, the court shall order the defendant to pay state minimum costs according to the following schedule:

- ♦ not less than \$60.00 for felony convictions.
- ♦ not less than \$45.00 for “serious” or “specified misdemeanor” convictions.
- ♦ not less than \$40.00 for misdemeanors (other than serious or specified) and ordinance violations.

MCL 769.1j(1); MCL 600.8381(4).

“Serious misdemeanors” are listed in MCL 780.811(1)(a). The only “serious misdemeanor” discussed in Volume 2 is operating a motor vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful bodily alcohol content, MCL 257.625(1) and (3), if the violation involves an accident resulting in damage to another individual’s property or physical injury or death to another individual.*

Note that the definition of “serious misdemeanor” includes a violation of a local ordinance substantially corresponding to the violation noted above, and a charged felony or “serious misdemeanor” subsequently reduced or pled to as a misdemeanor.

*See Chapter 3
for discussion
of drunk
driving
offenses.

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The “specified misdemeanors” discussed in Volume 2 are:

*See Section 7.4.

- fleeing and eluding a police or conservation officer, MCL 257.602a,*

*See Chapter 3.

- operating a motor vehicle while intoxicated or visibly impaired by alcohol or drugs or with an unlawful bodily alcohol content, MCL 257.625(1) and (3), where the violation does not cause property damage or another person’s injury or death,* and

*See Section 4.1.

- driving while license is suspended or revoked, MCL 257.904.*

Note that the definition of “specified misdemeanor” includes a violation of a local ordinance substantially corresponding to the violations listed above.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g) and MCL 769.1j(3), as added by 2003 PA 101, effective October 1, 2003.

2.13 Driver Responsibility Fee

Insert the following new Section 2.13 at page 2-9, and renumber existing Section 2.13 as 2.14:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a driver responsibility fee for specific violations. MCL 257.732a(2) provides for a mandatory assessment of a fixed driver responsibility fee when an individual is convicted of the specific offenses listed. The offenses discussed in Chapters 3 and 4 that require imposition of the driver responsibility fee are listed below. MCL 257.732a states in part:

“An individual, whether licensed or not, who violates any of the following sections or another law or local ordinance that substantially corresponds to those sections shall be assessed a driver responsibility fee as follows:

“(a) Upon posting of an abstract that an individual has been found guilty for a violation listed in this subdivision, the secretary of state shall assess a \$1,000.00 driver responsibility fee each year for 2 consecutive years for any of the following offenses:

* * *

“(iii) A violation of section 625(1), (4), or (5), section 625m . . . or a law or ordinance substantially corresponding to section 625(1), (4), or (5), section 625m”

* * *

“(b) Upon posting of an abstract that an individual has been found guilty for a violation listed in this subdivision, the secretary of state shall assess a \$500.00 driver responsibility fee each year for 2 consecutive years for any of the following offenses:

“(i) Section 625(3), (6), (7) or (8).”

* * *

“(iii) Section 904.”

*See Sections 1.4(G), 3.1, 3.4, and 3.5.

*See Sections 3.3, 3.6, 3.7, and September 2003 update.

*See Chapter 4.

CHAPTER 3

Section 625 Offenses

3.1 OUIL/OUID/UBAC — §625(1)

C. Criminal Penalties and Other Sanctions for Violations of §625(1)

1. First-time Offenders

Insert the following language after the paragraph beginning with “**License Sanctions**” near the top of page 3-6:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(1). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

2. Offenders Who Violate §625(1) Within Seven Years of a Prior Conviction

Insert the following language immediately before the last paragraph on page 3-6:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(1). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Offenders Who Violate §625(1) Within Ten Years of Two or More Prior Convictions

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” near the middle of page 3-7:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(1). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.3 Operating While Visibly Impaired (OWI) — §625(3)

B. Penalties for OWI

1. First-time Offenders

Insert the following language on page 3-13 immediately before the last paragraph:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(3). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

2. Repeat Offenders — Violation Within Seven Years of One Prior Conviction

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” in the middle of page 3-14:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(3). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Repeat Offenders — Violation Within Ten Years of Two or More Prior Convictions

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” near the top of page 3-15:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(3). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

*See September 2003 update for discussion of OWPD (operating with the presence of drugs).

3.4 OUIL/OUID/UBAC/OWI/OWPD* Causing Death of Another — §625(4)

B. Penalties for the Offense

2. Licensing and Vehicle Sanctions for First-time Offenders

Insert the following language on page 3-18 immediately after the paragraph beginning with “**Licensing Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(4). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Licensing and Vehicle Sanctions for Repeat Offenders

Insert the following language at the bottom of page 3-18:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(4). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.5 OUIL/OUID/UBAC/OWI/OWPD* Causing Serious Impairment of a Body Function — §625(5)

B. Penalties

2. Licensing and Vehicle Sanctions for First-time Offenders

Insert the following language on page 3-21 immediately after the paragraph beginning with “**Licensing Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(5). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Licensing and Vehicle Sanctions for Repeat Offenders

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**” near the top of page 3-22:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of MCL 257.625(5). MCL 257.732a(2)(a)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

*See September 2003 update for discussion of OWPD (operating with the presence of drugs).

3.6 “Zero Tolerance” Violations — §625(6)

B. Penalties

2. Licensing Sanctions

Insert the following language on page 3-24 immediately before the beginning of Section 3.7:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(6). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3.7 Child Endangerment — §625(7)

B. Penalties for Violation of §625(7)

2. Licensing Sanctions

Insert the following language near the bottom of page 3-27 immediately before the beginning of subsection 3:

Driver responsibility fee — Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(7). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

*See September 2003 update for addition of new Section 3.8 discussing OWPB.

3.8* Operating With the Presence of Drugs (OWPD)—§625(8)

B. Penalties for Violations of §625(8)

1. First-time Offenders

Insert the following language after the paragraph beginning with “**License Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(8). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

2. Offenders Who Violate §625(8) Within Seven Years of a Prior Conviction

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(8). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

3. Offenders Who Violate §625(1) Within Ten Years of Two or More Prior Convictions

Insert the following language immediately before the paragraph beginning with “**Vehicle Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.625(8). MCL 257.732a(2)(b)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 4

Section 904 Offenses

4.1 Driving While One's License Is Suspended or Revoked — §904(1) and (2)

C. Penalties

2. License Sanctions

Insert the following language on page 4-4 immediately before “**3. Vehicle Sanctions**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.2 Driving While License Suspended or Revoked Causing Death — §904(4)

B. Penalties and Sanctions

2. Licensing Sanctions

Insert the following language on page 4-6 immediately before the paragraph beginning with “**Points**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.3 Driving While License Suspended or Revoked Causing Serious Impairment of a Body Function — §904(5)

B. Penalties and Sanctions

2. Licensing Sanctions

Insert the following language on page 4-8 immediately before the paragraph beginning with “**Points**”:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.4 **Allowing a Suspended/Revoked Driver to Operate Causing Death or Serious Impairment of a Body Function — §904(7)**

B. Penalties

Insert the following language on page 4-10 immediately before the beginning of Section 4.5:

Driver responsibility fee — Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904, MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

4.5 Moving Violations Committed During a Period of Suspension/Revocation

Insert the following language on page 4-10 immediately before the existing text in Section 4.5:

Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$500.00 driver responsibility fee for a conviction of MCL 257.904. MCL 257.732a(2)(b)(iii). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 6

Procedure and Sanctions

6.3 Criminal Penalties for Felony Traffic Offenses

Add the following language to the end of Section 6.3:

Effective October 1, 2003, if a court orders a defendant to pay any combination of fines, costs, or assessments, the court shall order the defendant to pay state minimum costs of not less than \$60.00 for felony convictions. MCL 769.1j(1)(a). Payment of the state minimum costs must be made part of a defendant's probation. MCL 771.3(1)(g); MCL 769.1j(3).

6.4 Licensing Sanctions for Felony Traffic Offenses

A. Points

Insert the following language on page 6-4 immediately before subsection B:

Effective October 1, 2003, 2003 PA 165 provides for the Secretary of State to impose a driver responsibility fee based on the number of points an individual accumulates on his or her driving record. MCL 257.732a(1) provides:

“An individual, whether licensed or not, who accumulates 7 or more points on his or her driving record pursuant to section 320a within a 2-year period for any violation not listed under subsection (2) shall be assessed a \$100.00 driver responsibility fee. For each additional point accumulated above 7 points not listed under subsection (2), an additional fee of \$50.00 shall be assessed. The secretary of state shall collect the fees described in this subsection once each year that the point total on an individual driving record is 7 points or more.”

Only points assigned after the effective date of the statute (October 1, 2003) will be used to calculate the driver responsibility fee. Points existing on a driver's record prior to the effective date do not count. MCL 257.732a(6).

Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 7

Felony Offenses in the Michigan Vehicle Code

7.4 Failing to Stop at Signal of Police Officer (“Fleeing and Eluding”)

D. Licensing Sanctions

Add the following new #4 to the existing list at the top of page 7-11:

4. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of fleeing and eluding an officer. MCL 257.732a(2)(a)(v). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

7.8 Leaving the Scene of an Accident Resulting in Serious or Aggravated Personal Injury or Death

D. Licensing Sanctions

Add the following new #4 to the existing list near the bottom of page 7-18:

4. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of failing to stop and disclose identity at the scene of an accident when required by law. MCL 257.732a(2)(a)(iv). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 8

Felony Offenses in the Michigan Penal Code

8.1 Involuntary Manslaughter with a Motor Vehicle

D. Licensing Sanctions

Add the following new #3 to the existing list near the bottom of page 8-2:

3. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).

CHAPTER 9

Two Year Misdemeanors in the Michigan Penal Code

9.2 Negligent Homicide with a Motor Vehicle

D. Licensing Sanctions

Add the following new #3 to the existing list at the top of page 9-5:

3. Effective October 1, 2003, 2003 PA 165 requires the Secretary of State to assess a \$1,000.00 driver responsibility fee for a conviction of manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in license suspension. MCL 257.732a(3), (5).